

KAUAI PLANNING COMMISSION
REGULAR MEETING
March 10, 2015

The regular meeting of the Planning Commission of the County of Kauai was called to order by Chair Anderson at 9:14 a.m., at the Lihue Civic Center, Moikeha Building, in Meeting Room 2A/2B. The following Commissioners were present:

Chair Angela Anderson
Vice Chair Sean Mahoney
Mr. Louis Abrams
Mr. Wayne Katayama
Mr. Jan Kimura
Ms. Amy Mendonca

Absent and Excused:
Mr. Hartwell Blake

The following staff members were present: Planning Department – Michael Dahilig, Leslie Takasaki, Duke Nakamatsu, Kaaina Hull, Dale Cua, Marie Williams; Deputy County Attorney Ian Jung.

CALL TO ORDER

Chair Anderson called the meeting to order at 9:14 a.m.

ROLL CALL

Mr. Dahilig noted there were six members present.

APPROVAL OF AGENDA

Mr. Dahilig recommended moving item H.1., executive session, immediately after the consent calendar then taking item L.1., unfinished business, before general business matters.

On the motion by Sean Mahoney and seconded by Louis Abrams to approve the agenda as amended, the motion carried by unanimous voice vote.

Mr. Dahilig presented a lei and plaque of appreciation on behalf of the Planning Department to Commissioner Jan Kimura for his six years of service on the Planning Commission as this is his last day.

MINUTES of the meeting(s) of the Planning Commission

Regular Meeting of February 10, 2015

On the motion by Sean Mahoney and seconded by Louis Abrams to approve the minutes of February 10, 2015, the motion carried by unanimous voice vote.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Dahilig noted a number of supplemental items that were distributed including additional agency comments from the Department of Public Works and supplemental reports.

On the motion by Amy Mendonca and seconded by Sean Mahoney to receive the items for the record, all were in favor by unanimous voice vote.

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing (None)

New Agency Hearing (None)

Continued Public Hearing (None)

New Public Hearing (None)

All public testimony pursuant to HRS 92 (Sunshine Law)

The Commission received testimony from Larry Rivera regarding Coco Palms. He thanked the Commission with all his heart to do the right thing. People's lives depend on the project. He shared a song with the Commission.

The Commission received testimony from Rupert Rowe, lineal descendant of Coco Palms. His relatives are buried there. He would like to see that area placed into a park so the iwi that rest there can rest forever. He is a ward of the State based on a liquid measurement that does not give them the opportunity to protect their past. There is nobody in the room who is a ward of the State based upon their race. There is an injured party of families that live there that is being violated. Coco Palms should be a memory of their past. Put it back to what it once was and let those sleep the way they sleep. He knows there is money involved that represents development. It disrupts their lives and what they are all about, Kanaka Maoli. They have a quantum that is very disturbing. They do not have a fair shake in the Court system based upon the word ward. He would like to know if they have the same protection the developer has on restoring something there. It is very disturbing to him. There are a lot of Kanaka out there that don't want to come forward and voice their concerns because they look like foods to all of those who are not of the

blood, based upon a liquid measurement. He hears singing about Coco Palms 100 years ago. The Kanaka back then were happy. They never had their lands disturbed. Now it is all being disturbed from 1957 to now. Nobody can protect their past. They have been destroyed every day as they go forward. It is sad to say as a kingdom, they are totally losing their identity to the rich and powerful of the world.

The Commission received testimony from William Fernandez, Keiki o Ka Aina, born on Kauai, 50% Hawaiian. He is 84 years old and was born before Coco Palms was put into place, and lived through a time when Coco Palms was in place by the County of Kauai at this historical spot on the island. All the issues regarding the iwi, the royal aspect of creating Coco Palms was all decided years ago. The Commission is not being asked to revisit those questions. They are being asked as Larry Rivera has pointed out, to bring back to life what the County has already agreed to build and allowed to be there. It is time to move forward and complete what should be done and bring back to life this wonderful place that has so much of the history that he lived through on Kauai. He was at the torch lighting ceremonies, singing Hawaiian songs for the people coming here. The tourists have loved Coco Palms and it has been an institution that has been so important to all of Hawaii and all of the hotels in terms of teaching the Hawaiian history and aloha. He asked the Commission to move forward and not go back.

CONSENT CALENDAR

Status Reports (None)

Director's Report(s) for Project(s) Scheduled for Agency Hearing on 3/24/15. (None)

Shoreline Setback Activity Determination

Shoreline Setback Commission Review SSCR-2015-09 and Shoreline Setback Determination SSD-2015-27 for a shoreline activity determination, Tax Map Key 2-8-017: 005, Poipu, Kauai, for acceptance by the Commission = *Evan Goldberg*.

On the motion by Louis Abrams and seconded by Wayne Katayama to approve the consent calendar, the motion carried by unanimous voice vote.

EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), and Kauai County Charter Section 3.07(E), the Office of the County Attorney requests an executive session to provide the Commission a legal briefing concerning Supreme Court of the United States decision in *Koontz v. St. Johns River Water Management District* (No. 11-1446) relative to conditions imposed on land use entitlements. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Commission and the County as they relate to this agenda item.

On the motion by Sean Mahoney and seconded by Louis Abrams to move into executive session, the motion carried by unanimous voice vote.

The Commission moved into executive session at 9:31 a.m.

The Commission reconvened at 10:22 a.m.

UNFINISHED BUSINESS (For Action)

Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6 to permit repair and reconstruction of the former Coco Palms Resort including but not limited to: 350 hotel units, Lotus Restaurant and Flame Room Bar, the Lobby Building, the Commercial Building, three swimming pools, Queen's Audience Hall, the Palms Lanai, Sea Shell Restaurant, Chapel in the Palms, 2 of 4 Bridge Crossings; the construction of a new Utility & Maintenance Building and a new Queen Lagoon Building into a spa and gym facility on the site of the previously demolished structure. The project is situated in Wailua and located at 04-241 Kuhio Highway, further identified as Tax Map Keys 4-1-003: 004 (por.), 005, 007, 011, and 017 and 4-1-005: 014 and 017, and containing a total area of approx. 28.523 acres = *Coco Palms Hui, LLC*. [Director's Report received 1/13/15, Supplemental No. 2 Director's Report received 1/27/15, Supplemental No. 3 Director's Report on 2/10/15 agenda, hearing closed 2/24/15.]

Supplemental No. 4 Director's Report pertaining to this matter.

Mr. Dahilig noted a supplemental report number 4 has been distributed and he circulated a supplemental five. He read the supplemental reports into the record (On file). Since the last meeting, the Department was going to reconcile specific concerns related to historical architectural issues as well as gain more information and address by condition perceived traffic impacts for the project. The Department has been working with the Transportation Agency as well as the Department of Public Works and has been in contact with the Department of Transportation to further explore the issue of transportation impacts to the surrounding area. They provided additional conditions specifically recognizing that the Haleilio and Apana Roads are County controlled right of ways and are where a predominant amount of exaction focus was centered. A lot of conditions set forth was premised on the preliminary TIAR that was presented to the agencies. Condition 21 says given the outstanding evaluation of the traffic impact analysis report by the Department of Public Works and the Department of Transportation in the interim the applicant shall provide the following to mitigate traffic impacts created by the development: A) provide at the applicants expense a shuttle for 18 months after receiving certificate of occupancy as a pilot program to facilitate transit to and from the Lihue Airport and the development, B) provide at the applicant's expense a circulator shuttle for 18 months to move patrons from the hotel to Lydgate and Wailua Beach, the Seashell Restaurant site, the Coconut Market Place, and other destinations within the main Kapaa transit corridor as determined by the executive on transportation, C) provide at the applicant's expense a bike share program for the patrons of the resort to allow guests to ride bikes into Kapaa town and other destinations without driving, D) the applicant shall work with the State Department of Transportation and Public

Works to resolve pedestrian crossing, sidewalks, and vehicular traffic demands created by the development and bear implementation costs proportional to the impact that arises including installation of a continuous public sidewalk on the Kuhio Highway frontage between Kuamoo and Haleilio Road, and E) provide the Planning Department, Department of Public Works and State Department of Transportation an update to the TIAR one year after receiving certificate of occupancy evaluating traffic impacts created by the resort. This condition is to gain a sampling of what the traffic impacts look like after certificate of occupancy contemporaneous with the running of the interim programs. Finally, provide the Department with a report on the applicant's efforts to work with the Department of Land and Natural Resources to obtain permission to use the lands held by lease for mauka access for either vehicular or pedestrian to allow the movement of residents between Kuamoo and Haleilio Road. (This is meant to look at whether an access between the two collector roads would be possible to help facilitate traffic between those two corridors and take pressure off that strip between the two intersections.) Should an updated TIAR determine a change in the traffic conditions, the applicant is aware that this permit is subject to modification before the Planning Commission to address these impacts and acknowledges they may be responsible for the proportionate costs for any impacts for which a nexus to the activity may be identified. Condition 22 are additional specific CIP types of conditions set forth by Public Works. At this issuance of building permits, subsequent to commission action, the applicant shall bear the costs of the following improvements: design and construction of continuous public sidewalks fronting Apana Road to Haleilio Road and along Haleilio Road to Kuhio Highway fronting the applicant's property (a minimum of 5 feet wide), design and construction of a dedicated right turn lane on Haleilio Road from Apana Road to Kuhio Highway in addition to the existing through lane, design and construction of widening Apana Road to be wide enough for two way vehicle travel (the applicant shall work with Public Works on the width, length, and other design detail for this improvement), and finally design and construction of do-not-block markings along the eastbound lanes of Haleilio Road at the intersection of Apana Road. Condition number 10 was amended based on the request of the Transportation division to state at the issuance of any building permit subsequent to commission action, the applicant shall bear the cost of design and construction of a bus stop and pullout on Kuhio Highway just south of Haleilio Road including a 50 foot pullout additional space for decel and accel lanes. The public transit bus stop shall be fully accessible by the public. The location and configuration of the pullout and bus stop shall be coordinated with the Transportation Agency and the State Department of Transportation. The bus stop should include a passenger shelter, bike rack, trash for single bins and \$1,000 a year grant to the Transportation Agency for 20 years from approval to provide maintenance funds for the bus shelter. There was one more encouraging the applicant to support the bus system and encourage employees to use the bus. He noted they received further comment from Fish and Wildlife service as well as comments from the applicant regarding minor tweaks to the language. He noted changes to language in conditions 3, 16, 17, and 22 based on suggestions from the applicant and consented to by the Department. Based on Fish and Wildlife's comments, they added an additional condition 28 and 29 relating to lighting concerns as well as the request to develop a monitoring program should any biological issues arise conflicting with construction.

Mr. Abrams noted that they received draft traffic impact reports that Mr. Dahilig referred to as preliminary and updated. He questioned if there has been some other report since the two to which Mr. Dahilig replied there has been no report since then. As part of the agency

comments, the Department of Public Works asked for a TIAR. He noted the TIAR is not final at this juncture, but it is in substance and form that the commenting agencies feel comfortable making conditions based on those findings in the preliminary TIAR. As part of condition 21, they left the proviso to say that the TIAR still needs to be finalized and updated once the resort goes through. As the process goes through, it becomes more of a monitoring and adjustment process versus something that is fixed.

Michael Belles representing the applicant, Coco Palms Hui, LLC thanked the Planning Director and Attorney Jung for working closely with his client to come up with the best possible recommendation. They are in agreement with the proposed recommendations as amended in the last director's report. He suggested a revision for the Commission's consideration to condition 10 and condition 23 dealing with the transportation recommendation on installation of a bus stop. It is difficult and impossible to comply with the condition because there simply is no land to construct a bus stop and to have the necessary accel and decel lanes required. The commercial building is only a matter of feet within the state right of way. To physically locate a bus stop along Kuhio Highway would be a significant disruption of the entire frontage of the project, would displace parking, and require reconfiguration of buildings. He suggested an in lieu payment proportionate to the impact they believe they are creating. They would recommend their contribution be \$10,000 which they understand to be a proportionate share that was assessed another private developer. Beyond that, they have no objections to the report and the conditions as amended. They would support the Department and the Commission should they see it appropriate to approve the report as amended with the lone objections being to conditions 10 and 23.

Attorney Jung noted the new proposed condition 10 regarding language for the in lieu fee was distributed to the Commission.

Mr. Katayama questioned the number of employees that the project would have on a shift to which Tyler Greene, Principle of Coco Palms Hui, LLC. replied that they would need to look at the economist's report, but the total number of employees came out to 550 in total.

Mr. Abrams questioned whether the \$1,000 per year grant to the Transportation Agency for 20 years is no longer part of it and they are now looking at the in lieu fee of \$10,000 to which Mr. Dahilig replied that they were simply incorporating the comments from the executive on transportation into the report. It wasn't asked by the Transportation Agency. The applicant is objecting to conditions 10 and 23 and has proposed an additional condition in lieu of 10 and 23. The condition was discussed by the County Attorney's office.

Attorney Jung stated that he had discussions with the executive on transportation and they discussed what would be proportionate share. It turned out the newer aluminum bus stop facilities including the land work beneath the structure costs about \$50,000. The applicant was willing to pay 20% of that which would be \$10,000, similar to what was imposed on the Longs project.

Mr. Abrams asked for clarification that the maintenance proposal of \$1,000 per year was not at the Longs project to which Attorney Jung replied it was not at Longs so it was the determination to strike that provision.

Mr. Abrams suggested that the applicant consider adopting the bus stop to which Attorney Jung stated that he was not sure there was an adopt a bus program.

Mr. Abrams noted that they adopt signs on the state highways and portions of the highway to clean it.

Mr. Belles noted there are conditions 1 and 2 in which they are giving \$50,000 for each condition for regional impacts that are miscellaneous or generic in nature that the County can use. Based on his last experience with an Iniki Ordinance hotel application, they were simply required to have a covered bench in the port cochere. They were not asked to put in a bus shelter. All things considered and being under the Iniki Ordinance they believe it would be more fair and reasonable to retain the \$10,000 contribution and not go above and beyond.

Chair Anderson clarified that her understanding is that the applicant is opposed to condition number 23 which states if requested by the Transportation Agency due to increased ridership demand caused by the development, applicant shall provide an additional bus stop and shelter for the Kauai Bus. She asked if their proposal was to delete that condition altogether to which Mr. Belles replied yes, that their intention was to consolidate conditions 10 and 23 into a single condition and have the condition that was disseminated by the County Attorney's office be adopted in lieu of those two conditions. They believe that condition 23 has the same net effect of condition 10 which is that at the determination of the County, they would be responsible for building a bus stop. Because of the constraints of the property, it would be impossible to do on property. For them to acquire property beyond theirs, they don't have the power of eminent domain and would be perhaps an economic impossibility to perform.

Mr. Kimura suggested that instead of eliminating condition 23 if they could replace it with \$50,000 for a bus stop somewhere else to which Attorney Jung replied that condition 23 is proposed to be stricken because it is already a grandfathered hotel. The idea was looking at another bus stop at Haleilio and Apana, on County roads, but according to Transportation, they want to keep the bus moving and not having to turn into Haleilio and turn out onto Apana, creating an additional 3 to 5 minutes.

Mr. Kimura questioned if it had to necessarily be on or connected to the project to charge for another bus stop to which Attorney Jung replied that it would have to be connected to the project.

Chair Anderson stated that the problem of consolidating condition 23 with condition 10 is that condition 23 deals with increased ridership demand caused by the development which we haven't assessed given that the actual impacts are not present. Condition 23 seems to imply that should there be increased demand and need for an additional bus stop for the 500 employees or for the guest, that there could be an additional bus stop in the future. She asked if there could be alternative language to include for future impacts. She is concerned that if there is increased

ridership due to the development that they would need an additional bus stop. Mr. Belles replied that they have done many other things to mitigate traffic and usage of either vehicles or the bus by internal programs in the hotel and are offering to work with the Wailua, Kapaa, and Waipouli region on regional systems and to contribute their fair share. They see the problem as being a regional issue and not being one specifically tied to whatever proportional increase might be caused by the Coco Palms Hotel. They're really only proposing about 60 more units than what they would be outright permitted to build under the Iniki Ordinance with the exception of the one structure with the bar and grill facility. They are reducing the overall count from 398 to 350. They believe that it is becoming quite punitive in terms of focusing on the bus stop when they have already contributed what another developer has contributed in the recent past. It would be a hardship and unreasonable to impose this condition or having it hanging over their head knowing what the cost of a bus stop could be.

Mr. Kimura asked if they considered putting the bus stop on the south end of the property to which Mr. Dahilig replied they have left the specific determinations up to each agency which has jurisdiction. At the last meeting they discussed having the crosswalk at Kuamoo and the Highway. While that has merit, it hasn't been studied so they tried to craft conditions as in condition 22 to provide for future studies of such activities and bear the cost should the amended TIAR show that there is a reduction on traffic impacts as a consequence of moving the crosswalk. If a bus stop in an additional area is warranted given the proportional impacts of the resort, then it should be studied. He can only speak from what is transmitted from the agencies. If they had objections from the TIAR not being able to reflect the traffic impacts, they would probably have gotten a myriad of conditions, but he thinks what they are seeing is a comfort level with the TIAR at this point to proceed and both agencies reflect that. The Commission is wrestling the what-ifs. Condition 23 handles the what-if scenario. He suggested bundling condition 23 into the study elements of condition 21 so the TIAR is specifically directed to look at whether or not bus stops are appropriate in other locations. This way they wouldn't leave it as a unilateral condition for exaction but allow it to be studied first. That at least memorializes the desire by the Commission to not foreclose the opportunity to have an additional bus stop levied in case it is warranted by study.

Mr. Katayama questioned the expected level of service to mitigate visitors renting cars to access the property. Condition 21A asks to provide a shuttle service between the airport and the property. He questioned if they would be shuttling once an hour or on demand to which Mr. Greene replied that it would take three years for the hotel to be at stabilization. The first few years, in terms of the level of service with the shuttle, they would need to assess the demands and how often the customers are coming to the hotel that would also tie in with flight patterns. If they are at 30% occupancy the first year, it's hard to say how often that shuttle will run back and forth. They'll have to assess it once the hotel is opened based upon the occupancy. At the last meeting they spoke about the green package. They want to educate the travelers that they can come to Kauai and not be dependent on the rental car. That was the spirit of the shuttle running through the Kapaa Wailua corridor. If they elect not to rent a car, they would be picked up at the airport, and given free use of bikes for their stay. It's their belief that once they educate the travelers that they can do that, it will grow very quickly through social media, and it will be part of their marketing plan.

Mr. Katayama noted that the condition is there for 18 months. He questioned the long term solution for helping the guests access the beach to which Mr. Greene stated there will be four shuttles; an airport shuttle, a Wailua-Kapaa, Lydgate Park shuttle, a North Shore, South Shore shuttle, and a shuttle to bring people to the beach within the resort running on a regular loop.

Mr. Katayama asked for clarification that condition 21A&B are long term integrated transportation plans for the guests to which Mr. Greene stated that they see them as programs that will carry on. In their minds it boils down to the guest experience. If they can come here and have a pre-packaged tour or a bike ready for them, that would be an enjoyable experience. They feel it is something they would never want to do away with.

Mr. Abrams noted that if they applied the CZO to what is proposed right now, 561 parking stalls would have been required, so they are roughly about 150 short. He questioned the plan to deal with that situation. He was focusing on the bus which was the alternative form to get people out of cars. He questioned the location of the nearest bus stop to which Mr. Greene replied it is in the Brick Oven Pizza shopping center, close to the edge of the property. To further alleviate parking, they also have workforce housing requirements. They purchased a property across the street on Haleilio and will have 30 work force housing units. They agreed to give Coco Palms employees first right of refusal on those units. He believes they will fill up quickly with employees. They can not only enjoy that bus stop, but can also walk across the street 150 yards to work.

Mr. Abrams stated that his understanding is the County's domain only really deals with Haleilio and Apana so they are basically deferring to the State to handle that jurisdiction should the TIAR decide they need a bus stop. Mr. Dahilig stated that item 23 will be integrated into the litany of items 21 as part of the scope of study and note the exaction that further bus stops may be levied as a consequence of that. Should the DOT decide they want to weigh in and partner with the transportation agency to accommodate such a thing, a proportional share of that cost should be levied to the applicant.

Mr. Abrams questioned conditions 1 & 2 requiring the \$50,000 exactions each for historic preservation programs and current place making. He asked the applicant if they would have objection if they convinced the County that part of that could go to taking care of a bus stop that may or may not show up on the property to which Mr. Belles replied that if the County wants to use the money for other purposes and they do it through proper means of budget and finance, then they would have no objections. They are paying money to the County and the County is going to spend the money for its own public purposes.

Mr. Belles added that they offered, in his experience, far more than any other private resort developer has ever offered before in terms of public parking. They've offered a total of 40 parking stalls; 20 north and 20 south of the project. Typically an assessment against an entire hotel would be anywhere from 10 to 20 units in total. It is a balancing act trying to balance the shuttles, with parking, with the green package and they're hoping that at the end of the day nothing is conclusive. They don't know until they start it and get into the program. That's why some of them are test or pilot projects to see what best works to benefit the community and the

experience of their customers. If they are unhappy or can't get to where they want to go then that's going to have to change. Considering the Iniki Ordinance grandfathering a number of units above what would be outright permitted and that were less than what was there before, they feel it's a fair trade off on what is being proposed and what is being exacted.

Mr. Kimura asked if a park and ride was considered for employees to which Mr. Belles replied they were told they needed to keep all parking on site.

Mr. Dahilig stated that based off of their analysis and the surrounding area, they were concerned with extraneous parking in the residential communities. They want to be clear that they want the impacts to be inclusive on the property.

Mr. Belles noted that they are working on having the housing project within walking distance and the first option will be given to employees. They won't be able to solve all of the parking, but they will as a practical matter be revisiting it during the second TIAR within a year after the project.

Chair Anderson asked the Director to read the proposal to fold in condition 23 regarding the need for an additional bus stop into condition 21.

Mr. Dahilig stated that the proposal would be to strike and replace condition 10 with the recommended language that was distributed by Attorney Jung. In lieu of striking condition 23, the proposal would be to lift the language from condition 23 and add it to the end of condition 21E to state: provide the Planning Department, the Department of Public Works, and State Department of Transportation an update to the TIAR one year after the certificate of occupancy evaluating traffic impacts as created by the resort and analyze the need for additional bus stops. If requested by the Transportation Agency due to increased ridership demand caused by the development, applicant shall provide proportional support for an additional bus stop and shelter for the Kauai Bus.

Chair Anderson asked the applicant if they are agreeable to the proposed change to which Mr. Belles stated that he was glad to say that they have no objections and they support the proposed change.

Mr. Dahilig stated they would incorporate the changes into the report and reflect the renumbering of the conditions that follow condition number 23.

Mr. Katayama asked if it would include the letter of March 9 to which Mr. Dahilig stated that would be correct. Instead of 29 conditions it would be 28. Condition 23 would be mitigated as a consequence of the phrase proportional support, so they would leave 23 as is and amend 21E to say analyze the need for additional bus stops.

Mr. Belles stated the applicant has no objections because it would be either a subparagraph or stand-alone number so it's form over substance.

Mr. Kimura questioned what the recommended motion would be to which Attorney Jung noted procedurally the Director is trying to incorporate the commissioners' concerns into the staff report. The Commission would make a motion to either approve, deny or modify the recommendation.

Chair Anderson clarified that there was a supplement number 5, also language that was discussed to condition 10 to read as the applicant suggested, the inclusion of changes to number 21, and the inclusion of proportionate to number 23.

Ms. Mendonca questioned if the housing for employees would be built simultaneously to the hotel or after the fact to which Mr. Green stated that it would be built simultaneously so it would be ready for the first batch of employees.

Ms. Mendonca asked for clarification that employees will have the right of first choice to which Mr. Green replied yes.

On the motion by Jan Kimura and seconded by Sean Mahoney to approve Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6 with twenty nine conditions with the consent of the applicant, the motion carried by unanimous roll call vote.

GENERAL BUSINESS MATTERS

2014 Annual Status Report and Request for Extension for Project Development Use Permit PDU-2009-9 and Class IV Zoning Permit Z-IV-2009-6, Tax Map Key 5-2-013: 001, Lihue, Kauai = Koamalu Plantation, LLC.

Acting Planning Director Kaaina Hull stated that the applicant is requesting a time extension to go beyond the time allotted under condition 5. In accordance with condition 10, the applicant is providing an annual status report. These permits have lapsed under the limit established which was November 2014 for full construction to complete. It is not under construction as of yet and they are requesting an extension. The global economy and real estate market value in Hawaii in the last five years prove increasingly difficult to secure traditional financing for real estate development on Kauai. Resolution of the eminent domain process with the State Department of Transportation to accommodate the ongoing Kaunualii Highway widening project took approximately four years and delayed the siting of the housing project. Given a renewed ability to secure financing as well as resolution of the siting concerns the applicant is able to commence with the project. The proposed project will be providing much needed housing stock to Kauai's housing inventory including a minimum of 30% affordable units administered in the County of Kauai Housing Agency. In order to accommodate development of these housing units, it may be appropriate to delete condition number 5. The Department is recommending the extension be granted via deletion of condition 5 which requires completion back in November 2014.

Mr. Kimura questioned the length of the extension request to which Mr. Hull replied they have not specified and the Department is in agreement that no specification is necessary.

Mr. Kimura questioned that initially they gave them five years and now they are saying they don't need it to which Mr. Hull replied that there were certain standards at the time. Given the widening of the roadway, various financing issues, they were not able to meet the requirement, however the affordable housing units is what the Department views as vital to the Lihue community. The Commission can impose a time requirement if they choose.

Chair Anderson disclosed that she had been involved with this project in her former work. She recused herself from this particular matter and from the decision making and turned the meeting over to Vice Chair Mahoney.

Mr. Abrams questioned if there have been any recent talks with the Housing Agency to which Mr. Hull replied they have been in discussions with Housing and the last the Department checked they did not have any issues with the development and did not submit any comments.

Avery Youn, authorized agent for the applicant, stated that he agreed with the staff report. Condition 10 requires them to come before the Commission every year for an annual status report in which they can go over conditions at that time also. The major delay was construction of the four lane highway. Now that it is almost done they can pick up again. Financing was also a problem, but it has since been resolved.

On the motion by Louis Abrams and seconded by Jan Kimura to approve, the motion carried by unanimous voice vote (5-0).

Chair Anderson resumed the meeting.

2014 Annual Status Report for Project Development PDU-2013-15, Class IV Zoning Permit Z-IV-2013-17, Use Permit U-2013-14, Special Permit SP-2013-5, Tax Map Key 5-2-013: 001, Kilauea, Kauai – *The Resonance Project Foundation*. [Director's Report on 2/10/15 agenda, taken out of consent calendar 2/24/15.]

Mr. Dahilig noted this was taken out of the consent calendar by request and placed on today's calendar for further discussion.

Staff Planner Dale Cua stated that the project received Planning Commission approval on December 10, 2013 to develop a research complex facilitating research in various science practices that would include construction of a research facility containing offices and workshop areas, dormitory buildings, various accessory structures, and provision for off street parking. The dormitory facility would provide housing for resident staff members, visiting scientists, invited researchers as well as other education program participants. The attached status report and progress report is provided by the applicant pursuant to condition 13.

Ms. Mendonca stated that initially there were some concerns by the public. She questioned if there have been any complaints since then to which Mr. Cua replied there were none whatsoever.

Mr. Kimura stated that in 2013 they had their plans all set in place. It seemed like a necessity to the permits then, but all of a sudden they are in slow motion. He questioned what has taken so long to which Mr. Cua replied there is a building permit for one of the structures within the facility and they are planning to come in for another facility that may or may not involve a design change.

Mr. Kimura questioned what kind of permit is needed to put a container on the ground to which Mr. Cua replied the Building Division will require a permit.

Chris Almida, Executive Director for the project, stated that the primary holdup is financing. They are a non-profit organization operating under a grant. The grant is directed primarily to the scientific research with a certain amount apportioned toward capital improvements. They have done some of the improvements including the containers that have been built out and other improvements within the property. They rely on additional financing from donations through their membership programs and academic educational programs, and it has taken time to build those things out and have the flow continue. Their main priority is the research that is where they focus their funds.

Mr. Kimura asked for clarification that in 2013 they needed to have it approved then and there because they would lose the funding. He stated that it has been approved, but they are looking for money again. Mr. Almida replied that the way the grant is written, they had to meet certain milestones on a regular basis. The disbursements were tied to those milestones. The permits were very early in the milestone process.

Mr. Kimura stated they knew the deadlines coming in for the permits. He asked for clarification that they felt they could meet those milestones back then and then they didn't to which Jonathan Chun, representing the applicant, replied that the milestone was to obtain the use permit for the project. Now that they have met that milestone, they need to get additional funding for the construction. That is not part of a milestone in terms of the existing grant for the research. They operate under more than one grant. The major grant is the one that had the milestone regarding the permit to fund the research. They receive funds from other donors for capital improvements and they are in the process of raising those funds. He added that they have an existing request to the Planning Department for a slight amendment to a building and they can't build until approved by the Department. There is a pending request to the Department in a change to the design to the building. The ones they could do they have done.

Mr. Kimura asked about the other structure for the housing to which Mr. Chun replied that would be phase 2 which was always in the original application.

On the motion by Sean Mahoney and seconded by Jan Kimura to accept the status report, all were in favor by unanimous voice vote.

The Commission recessed at 11:47 a.m.

The Commission reconvened at 1:25 p.m. (Ms. Amy Mendonca was not present)

COMMUNICATION (For Action) (None)

COMMITTEE REPORTS (None)

UNFINISHED BUSINESS (Continued)

Six-year Capital Improvement Program Report Presentation. [Deferred 2/24/15.]

Supplemental No. 2 Director's Report pertaining to this matter.

Staff Planner Marie Williams stated that they are seeking approval of this year's six year capital improvement report. They aim to submit the report with the Mayor's budget that will be given to Council on March 16. In the future, they will try to bring this report to the Commission at an earlier date so they can have adequate time to review the report and projects. They made changes to the report based on discussions on February 24. Per Chair Anderson's request, they included chart 5 on page 7 of the amended report that groups projects by types with detailed funding sources. She noted that for solid waste projects the funds predominantly come from the issuance of general obligation bonds, projected to go out in the next few years. Roadway, multimodal, and bridges projects are predominantly from federal sources through the State transportation improvement program. They added a new horizon project, the Kilauea bypass road, including a short description and cost estimate. The Department recommends that the Commission approve the attached report and the immediate transmittal to the Mayor's office for submittal in the financial year 2015/16 budget.

On the motion by Jan Kimura and seconded by Sean Mahoney to approve, all were in favor by unanimous voice vote (5-0).

NEW BUSINESS (None)

ANNOUNCEMENTS

The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, HI 96766 on **Tuesday, March 24, 2015.**

Chair Anderson notified the Commission that staff will be contacting them regarding scheduling of contested case hearings. If commissioners have any blackout dates she requested that they forward them to the secretary.

ADJOURNMENT

Chair Anderson adjourned the meeting at 1:31 p.m.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "Duke Nakamatsu", written over a horizontal line.

Duke Nakamatsu,
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.